

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

In re FIRSTENERGY CORP. SECURITIES LITIGATION,	Case No. 2:20-cv-03785-ALM-KAJ <u>CLASS ACTION</u> Chief Judge Algenon L. Marbley Magistrate Judge Kimberly A. Jolson Special Master Shawn Judge
MFS Series Trust I, <i>et al.</i> , Plaintiffs, v. FirstEnergy Corp., <i>et al.</i> , Defendants.	Case No. 2:21-cv-05839-ALM-KAJ Chief Judge Algenon L. Marbley Magistrate Judge Kimberly A. Jolson Special Master Shawn Judge
Brighthouse Funds Trust II – MFS Value Portfolio, <i>et al.</i> , Plaintiffs, v. FirstEnergy Corp., <i>et al.</i> , Defendants.	Case No. 2:22-cv-00865-ALM-KAJ Chief Judge Algenon L. Marbley Magistrate Judge Kimberly A. Jolson Special Master Shawn Judge

**DEFENDANTS CHARLES E. JONES AND MICHAEL DOWLING'S ACCOUNTING OF DISCOVERY**

Pursuant to the Order by Special Master Regarding Accounting of Discovery (ECF No. 656), Defendants Charles E. Jones and Michael Dowling submit the following accounting of discovery that has been taken to date in the above-captioned matters and, based on Defendants' current understanding, of discovery that remains to be completed. Defendants reserve their right

to take additional or different discovery as necessary in light of case developments and to support their defense.

## **I. Discovery Taken to Date**

### **A. Depositions<sup>1</sup>**

1. Amalgamated Bank 30(b)(6) Eleanor Innes
2. Asim Haque
3. Bank of America Securities 30(b)(6) David Mikula
4. Bank of America Securities 30(b)(6) Julien Dumoulin-Smith
5. Barclays Capital 30(b)(6) Robert Stowe
6. Charles Jones
7. Citigroup Global Markets 30(b)(6) Brian Bednarski
8. City of Irving Supplemental Benefit Plan 30(b)(6) Brad Duff
9. Cynthia Jones (Class Plaintiffs' class certification expert)
10. David Pinter
11. Dennis Chack
12. Eileen Mikkelsen
13. FirstEnergy Corp. 30(b)(6) Joseph Storsin
14. FirstEnergy Corp. 30(b)(6) Tracy Ashton
15. George Smart
16. Irene Prezelj
17. James Pearson

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<sup>1</sup> Mr. Jones and Mr. Dowling reserve the right to request additional time to depose these witnesses to the extent that new evidence arises through discovery that warrants further examination. Mr. Jones and Mr. Dowling also reserve the right to reopen depositions of witnesses who previously refused to answer all fact-related questions related to FirstEnergy's internal investigation. *See* Court Orders (ECF# 571, 575, 653).

18. Jason Lisowski
19. Dr. Jennifer Marietta-Westberg (FirstEnergy's class certification expert)
20. Dr. Jerry Sue Thornton
21. JP Morgan Securities 30(b)(6) Charles Wortman
22. Julia Johnson
23. KeyBank Capital Markets 30(b)(6) Ryan Pirnat
24. LACERA 30(b)(6) Esmeralda Del Bosque
25. Michael Dowling
26. Mizuho Securities USA 30(b)(6) Michael Donohue
27. Paul Addison
28. RBC Capital 30(b)(6) Anthony Ianno
29. Sandra Pianalto
30. Scotia Capital 30(b)(6) Andrew Weisel
31. Scotia Capital USA 30(b)(6) Michael Ravanesi
32. Dr. Scott Dalrymple (Class Plaintiffs' class certification expert)
33. Steve Strah
34. Thomas Mitchell
35. Wisconsin Laborers 30(b)(6) John Schmitt

**B. Document Productions<sup>2</sup>**

1. Abbott Laboratories
2. AirGas USA LLC
3. Amalgamated Bank
4. American Electric Power Company, Inc.

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<sup>2</sup> Mr. Jones and Mr. Dowling reserve the right to request additional discovery from these individuals and entities to the extent that prior productions are incomplete or in light of additional information obtained.

5. American Express
6. Anna Lippincott
7. AT&T
8. Ballard Spahr LLP
9. Bank of America Securities, Inc.
10. Barclays Capital, Inc.
11. Bath & Body Works Logistics Services LLC
12. Bradley Bingaman
13. Brighthouse Plaintiffs
14. Brooke Bodney
15. Building Laborers' Local Union 310
16. Carlos LoParo
17. Charles Jones
18. Charles Schwab
19. CIBC World Markets Corp.
20. Citigroup Global Markets Inc.
21. Citigroup World Markets, Inc.
22. City of Irving
23. City of Irving Supplemental Benefit Plan
24. Clearsulting
25. Coalition for Growth & Opportunity, Inc.
26. Constant Content Co.
27. Cynthia L. Jones, CFA
28. Daniel McCarthy
29. David Eric Lycan

30. Debbie Ryan
31. Dennis Chack
32. Deutsche Bank Securities Inc.
33. Donald R. Schneider
34. Donald T. Misheff
35. Ebony Yeboah-Amankwah
36. Energy Harbor
37. Ernest Novak
38. FieldWorks, LLC
39. Fifth Third
40. Financial Industry Regulatory Authority, Inc.
41. FirstEnergy Corp.
42. Fitch Ratings, Inc.
43. Generation Now
44. George Smart
45. Goldman Sachs & Company LLC
46. Grant Street Consultants LLC
47. Green Century Capital Management, Inc.
48. Growth & Opportunity PAC, Inc.
49. IBEW Local Union 245
50. IEU-Ohio Administration Company LLC
51. Industrial Energy Users-Ohio
52. James Pearson
53. Jason Lisowski
54. Jason Rafeld

- 55. Jefferies Group LLC
- 56. Jeffrey Longstreth
- 57. Joel Bailey
- 58. John Judge
- 59. John Kiani
- 60. JP Morgan Chase Bank, N.A.
- 61. JP Morgan Securities LLC
- 62. JPL & Associates, LLC
- 63. JVA Campaigns LLC
- 64. KeyBanc Capital Markets Inc.
- 65. LACERA
- 66. Leila Vespoli
- 67. LoParo Public Relations LLC
- 68. McKenzie Davis
- 69. McNees Wallace & Nurick LLC
- 70. Megan Fitzmartin
- 71. MFS Plaintiffs
- 72. Michael Dowling
- 73. Mizuho Securities USA LLC
- 74. Mogan Stanley & Co LLC
- 75. Moody's Investors Service, Inc.
- 76. Morgan Stanley & Co. LLC
- 77. Mott, Self & Associates
- 78. MUFG Securities Americas Inc.
- 79. Neil Clark

80. Nikko Securities America Inc.
81. Partners for Progress, Inc.
82. PNC Capital Markets LLC
83. Price Target Research
84. PricewaterhouseCoopers LLP
85. Public Utilities Commission of Ohio
86. R. Scott Davis
87. RBC Capital Markets LLC
88. Robert Reffner
89. Samuel C. Randazzo
90. Santander Investment Securities Inc.
91. Scotia Capital (USA) Inc.
92. SMBC Nikko Securities America, Inc.
93. Standard & Poor's Financial Services LLC
94. Strategic Media Placement, Inc.
95. Sustainability Funding Alliance of Ohio, Inc.
96. TD Securities (USA) LLC
97. Ted Kleisner
98. The Batchelder Co.
99. The Nathan Cummings Foundation, Inc.
100. The Strategy Group Company, LLC
101. The Success Group, Ltd.
102. TimkenSteel Corporation
103. Ty Pine
104. U.S. Bancorp Investments, Inc.

105. U.S. EPA
106. UBS Securities LLC
107. University of Akron
108. Utility Scale Solar Energy Coalition of Ohio
109. Verizon
110. Voter to Voter LLC
111. W. Scott Dalrymple, CFA
112. Wells Fargo Securities, LLC
113. Wisconsin Laborers' Pension Fund
114. Zacks Investment Research, Inc.

**C. Written Discovery Requests**

1. All parties have answered and/or propounded at least one set of written discovery requests

**D. Outstanding Subpoenas or Productions<sup>3</sup>**

1. Accenture
2. Empowering Ohio's Economy
3. Energy Harbor
4. David Eric Lycan
5. FirstEnergy Corp.<sup>4</sup>
6. Governor Michael DeWine
7. James Nevels

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<sup>3</sup> For some of these outstanding productions, the meet and confer process is ongoing. For others, an additional production has been ordered by this Court to occur once fact discovery recommences or a production issue remains pending before the Special Master or this Court.

<sup>4</sup> FirstEnergy has been ordered to produce documents relating to its internal investigation. In addition, it is expected that one or more parties will seek additional discovery from FirstEnergy based on the crime fraud exception to the attorney client privilege under the same reasoning applied by this Court to Energy Harbor.

8. Josh Rubin
9. KPMG
10. Lt. Governor John Husted
11. PricewaterhouseCoopers LLP
12. Samual C. Randazzo
13. Strategies for Results, Inc.
14. Sustainability Funding Alliance of Ohio, Inc.
15. Terry P. Dershaw
16. Thomas T. George

## **II. Likely Anticipated Discovery<sup>5</sup>**

**A. Consolidated Privilege Log from FirstEnergy & related privilege issues, including challenges to FirstEnergy's assertion of the attorney-client privilege and/or application of the crime-fraud exception.**

**B. Depositions of**

1. American Electric Power 30(b)(6)
2. Andre Porter
3. Angela Hawkins
4. Anna Lippincott
5. Ballard Spahr LLP 30(b)(6)
6. Beth Trombold
7. Bill Seitz
8. Bradley Bingaman
9. Brakey Energy, Inc. 30(b)(6)

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<sup>5</sup> Included in the list of Anticipated Discovery are depositions and document requests/subpoenas that Mr. Jones and Mr. Dowling believe are likely to be requested by one or more parties in the Securities Litigation. Many of these depositions were noticed prior to the stay of discovery.

10. Brian Knipe
11. Brooke Bodney
12. Charles Lasky
13. Christopher Pappas
14. CIBC World Markets Corp. 30(b)(6)
15. Daniel Conway
16. Daniel McCarthy
17. David Griffing
18. David Kutik
19. Deborah Ryan
20. Dennis Deters
21. Donald Misheff
22. Donald Schneider
23. Ebony Yeboah-Amankwah
24. Energy Harbor 30(b)(6)
25. David Eric Lycan
26. Frank Strigari
27. Gary Benz
28. Generation Now 30(b)(6)
29. Gregory Price
30. IEU-Ohio 30(b)(6)
31. James Hadden
32. James Nevels
33. James O'Neil
34. Jason Rafeld

- 35. Joel Bailey
- 36. John Judge
- 37. John Kiani
- 38. John Ryan
- 39. John Skory
- 40. Josh Rubin
- 41. Justin Biltz
- 42. K. Jon Taylor
- 43. Kathleen Fleck
- 44. Kevin Murray
- 45. Laurel Dawson
- 46. Lawrence Friedman
- 47. Leila Vespoli
- 48. Leslie Turner
- 49. Luis Reyes
- 50. Marathon Petroleum Company 30(b)(6)
- 51. Mark Clark
- 52. Mark Hayden
- 53. Matt Borges
- 54. Matt Brakey
- 55. Matt Pritchard
- 56. Maureen Willis
- 57. McKenzie Davis
- 58. Megan Fitzmartin
- 59. Michael Anderson

60. Michael Dawson
61. Michael Van Buren
62. MUFG Securities Americas Inc. 30(b)(6)
63. Nick Akins
64. Partners for Progress 30(b)(6)
65. Patrick Tully
66. PNC Capital Markets LLC 30(b)(6)
67. PricewaterhouseCoopers LLP 30(b)(6)
68. Renee Rambo
69. Rex Elsass
70. Robert Reffner
71. Santander Investment Securities Inc. 30(b)(6)
72. Sam Belcher
73. Scott Davis
74. Scott Elisar
75. SMBC Nikko Securities America, Inc. 30(b)(6)
76. Santino Fanelli
77. Stephen Burnazian
78. Steve Staub
79. Steven Demetriou
80. Sustainability Funding Alliance of Ohio, Inc.
81. TD Securities (USA) LLC 30(b)(6)
82. Tom Froehle
83. Tony Alexander
84. Ty Pine

85. U.S. Bancorp Investments, Inc. 30(b)(6)
86. Wayne Boich
87. William Ridmann

**C. Document Requests or Subpoenas Directed to**

1. American Electric Power Company, Inc.
2. FirstEnergy Corp.
3. Florida Department of Motor Vehicles
4. Governor Michael DeWine
5. Intuit
6. James Hadden
7. Keep Financials
8. Laurel Dawson
9. Lt. Governor Jon Husted
10. Michael Dawson
11. Misc. financial institutions for account records
12. Terrence O'Donnell
13. Verizon
14. Winterset CPA

**D. Expert Witness Discovery<sup>6</sup>**

1. Forensic accounting expert
2. Energy regulatory expert
3. Campaign finance expert
4. Any necessary rebuttal experts in response to Plaintiffs' primary identification of experts, including damages expert(s)

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<sup>6</sup> Except as it relates to class certification, expert discovery (including identification and production of primary expert reports, rebuttal expert reports, and expert depositions) has not yet begun.

Respectfully submitted,

/s/ Rachael L. Israel

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 22, 2024, a copy of the foregoing was filed electronically.

Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

Parties may access this filing through the CM/ECF system.

*/s/ Rachael L. Israel*  
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